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AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/941,602 09/30/97 MIZE

J 42765

028236
CRYOVAC, INC.
SEALED AIR CORP
P.O. BOX 464
DUNCAN SC 29334

IM52/1105

EXAMINER

NOLAN, S

ART UNIT

PAPER NUMBER

27

1772
DATE MAILED:

11/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application N .

08/941,602

Applicant(s)

MIZE ET AL.

Examiner

Sandra M. Nolan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 8-17, 19 and 21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 and 31-35 is/are allowed.
- 6) ☒ Claim(s) 1-7, 18, 20 and 22-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 9, 2001 (Paper No. 26) has been entered.

Claims

2. Claims 1-7, 18, 20, and 22-35 are under consideration

Rejections Withdrawn

3. The 35 USC 103 rejection of claims 20 and 33 as unpatentable over Williams et al (US 5,540,646), as recited in paragraph 7 of Paper No. 17, is withdrawn in view of Applicants' comments in Paper No. 26.

4. The 35 USC 103 rejection of claims 31, 32, 34, and 35 as unpatentable over Brady et al in view of Williams et al, as set forth in paragraph 9 of Paper No. 17, is withdrawn in view of Applicants' comments in Paper No. 26.

Rejections Maintained

5. The 35 USC 103 rejection of claims 1-7 and 22-25 as unpatentable over Brady et al (WO 96/00688) in view of Williams et al (US 5,540,646), as set out in paragraph 6 of the Office Action dated July 5, 2000 (Paper No. 17), is maintained for the reasons set out there.

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6. The 35 USC 103 rejection of claims 26-30 (now claims 18 and 26-30), as explained in paragraph 8 of Paper No. 17, is maintained for the reasons given there.

Allowable Subject Matter

7. Claims 20 and 31-35 are allowed.

Response to Arguments

Applicant's arguments filed in Paper No. 26 have been fully considered but they are not persuasive.

The arguments presented in Paper No. 26 will be responded to in the order in which they were presented.

On page 4, Applicants argue that only one side of the bag of Brady is covered by the patch.

The argument that only one side of the bag of Brady is covered by the patch is not persuasive. It would be a matter of engineering choice to position the patch so that it covered those sides of the bag that require reinforcement.

On page 4, Applicants argue that Brady's bag does not have a side seal.

This argument is not persuasive. The provision of side seals in bags is conventional. Note Figure 2, which shows such seals.

On page 4, Applicants argue that Brady's patch extends past both edges of the bag and "completely around the bag".

This argument is not persuasive because Applicants' claims--as now amended--require that their patch covers more than 50% of the surface of the bag, as does Brady's patch.

On page 4, Applicants argue that the Brady bag is different because the seal is through the bag and the patch.

This argument is not persuasive. In the absence of convincing objective evidence to the contrary, the placement of the seam through only one surface is deemed a matter of engineering choice.

On page 5, the argument is made that the patches of Brady cover both edges of the bag.

This argument is not persuasive. Applicants' claims require that their patch covers more than 50% of the surface of the bag.

On page 5, the argument that the Williams bags are different has been rendered moot by the allowance of claims 20 and 33.

On page 7, Applicants argue that modifying Randall such that the bottom is not reinforced is improper.

The Examiner disagrees. The modification of Randall to modify only those portions of the bag that need reinforcement is a matter of engineering choice. Also, it is deemed more cost efficient to reinforce only portions of the bag that actually need it.

As to the arguments on page 8, the allowance of claims 20 and 31-35 renders the arguments moot.

Conclusion

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can

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normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan
Patent Examiner
Technology Center 1700

SMN/smn
November 1, 2001
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